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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,073	01/05/2004	Monte D. Mohr	MOHR001	1281
7590	04/12/2005		EXAMINER PRONE, JASON D	
Monte D. Mohr 4300 McNeil Rd Cameron Park, CA 95682			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/751,073

**Applicant(s)**

MOHR, MONTE D.

**Examiner**

Jason Prone

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/05/04</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. All American references provided in the I.D.S. have been considered. However, the foreign references listed have not been considered due to the fact that a copy of each foreign reference was not included. If applicant wants these foreign references considered, applicant must file another I.D.S. re-listing all the foreign references and provide a copy of each.

### ***Drawings***

2. The drawings are objected to because in Figures 2, 3, 4, and 5, item "15" appears to be pointing at something different in each of these Figures. Also, in Figures 2, 3, 4, and 5, it is not clear what item "7" is pointing at. Finally, in Figure 5, item "9" and its corresponding reference line should be deleted since the opening is not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

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must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because there are numerous occasions that the letters "o" and "e" are missing from words. The abstract must be reviewed and the missing letters replaced (a copy of the abstract as it is in the file is attached at the end of this Office action). Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities: There are numerous occasions that the letters "o" and "e" are missing from words. The entire specification must be reviewed and the missing letters replaced (a copy of the specification as it is in the file is attached at the end of this Office action). Also, the legal term "said" occurs numerous times in the specification. This term is to be used only in the claims. For example, on line 7 of the third full paragraph of the Detailed Description of the Invention section, the phrase "from said conventional beverage container" should be replaced with "from the conventional beverage container".

Appropriate correction is required.

### ***Claim Objections***

5. Claims 2 and 3 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

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Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 and claim 3 restates the limitations previously disclosed in claim 1. Claim 2 and claim 3 fail to further disclose any additional structure.

6. Claims 1-3 objected to because of the following informalities: There are numerous occasions that the letters "o" and "e" are missing from words. The claims must be reviewed and the missing letters replaced (a copy of the claims as it is in the file is attached at the end of this Office action). Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-3 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are replete with indefinite and functional or operational language. The structure that goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

9. Claim 1 recites the limitation "said rearward edge of said screw-threaded cap" on line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Kent (3,083,691).

Kent discloses the same invention including an office product capable of threadably fitting on a plastic beverage container that sharpens pencils (Fig. 1) comprising a housing (20) having a pair of sidewalls spaced from one another (29 and 31), an open end defined between the pair of sidewalls (Fig. 2), a bottom wall extending between the pair of sidewalls and adjacent to the open end (40), each of the pair of spaced sidewalls share an elongated groove adjacent to the open end and extending up to and adjacent the bottom wall (Fig. 2), a screw-threaded cap adjacent to the pair of side walls, integrally attached to the housing at the open end (11), and defining a rearward edge of the embodiment (14), positioned to abut the rearward edge of the screw-threaded cap to a plastic container (Column 2 lines 36-39), the housing defines a pencil-receiving opening (13), and a sharpening assembly mounted within the housing (22).

***Conclusion***

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12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Becker, Benczalski, Fugle, Dombroski, Mobius, Buc, Galli, Mattheis et al., Kiyokane, Lüttgens, and Fischer.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513.

The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700

JP  
April 07, 2005